CONSULTANCY PROPOSAL TO REVIEW THE LEGAL ASPECTS OF FORESTS AND TREE USE IN THE KUMAON HILLS, UTTAR PRADESH

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INTRODUCTION

The Kumaon region of Uttar Pradesh hills consists of three districts of Almora, Nainital and Pithoragarh under the Kumaon Civil Division. The forests of the region are very rich and varied both in flora and fauna. Very little is known about the history of these forests before the British occupation of Kumaon in 1815 except for some planting of Deodar around temples such as Jageshwar. The forests were perhaps extensive and, therefore, considered inexhaustible. The early British travellers in this region have described the existence of deep lush coniferous forests in these mountains protected by the marshes, mosquitoes and tigers of the dense forests in *Tarai*. However, the observations of Bishop Reginald Heber, in 1824-25, speak of the process of destruction that had already begun: "Great devastations are generally made in these woods, partly by the increase in population, building and agriculture, partly by the wasteful habits of travellers who cut down multitudes of young trees to make temporary huts and for fuel, while cattle and goats which browse on the mountains, prevent a great part of seedlings from rising. Unless some precautions are taken, the inhabited part of Kumaon will soon be wretchedly bare of wood and the country already too arid will not only loose its beauty but its small space of fertility".

The first initiative with regard to the forests was in the form of Traill's revenue settlement of 1823 more popularly known as

"*Sal Assi Bandobast*" as it coincided with Vikrami Samvat 1880 of the Hindu calander. Under this settlement boundaries of the forests and wastelands were demarcated for individual villages within which every villager enjoyed the rights of pasture and wood cutting. Between 1855 and 1861 due to heavy demand of railway sleepers, extensive fellings of Sal (*Shorea robusta*) were carried out in the more accessible forests. The Government then, for the first time, realised the necessacity of formal institutional control of the forest resources. The Indian Forest Act came into force in 1865 and some areas under Sal were declared as Reserved Forests in the same year. By 1868 a regular Forest Department for the Kumaon Civil Division was formed. A second land settlement was carried out in 1872 under which only private and cultivated lands were measured and these lands were termed as *Naap* lands. Forestry, however, found a beginning in 1861 by which time a lot of damage had already been done to the forests for various reasons. Emphasis on agriculture led to the creation of *Kham* estates in the *Tarai-Bhabar* for which large areas of forests were cleared. Establishment of cantonment towns, tea gardens, apple orchards, mining and smelting of iron ore based on wood charcoal and heavy demand of timber for railway sleepers led to the destruction of large areas of forests even in the hilly region.

A more comprehensive Indian Forest Act in 1878 was framed and settlement proceedings for reserving more and more forest areas were taken up which continued till 1917. The forest areas were

first demarcated and then transferred from the control of the revenue authorities to the Forest Department. Early in 1893 a notification was issued by the Government by which all the forests and wastelands of the then Kumaon Civil Division, not forming parts of the measured areas of villages or of the Reserve Forests, were declared as Protected forests.

There was great resentment among the local people against the reservation of forest areas and in 1916 a Kumaon Association was formed by a local group of people to deal with the forest problems of the region. This group took up the demand of inhabitants with regard to their rights and concessions. In 1921 the Government constituted the Kumaon Forest Grievances Committee under the Chairmanship of Mr. P. Wyndham which recommended reclassification of forests. Forests having little commercial value but important for water conservation and supply of fuel and fodder to the local people were designated as Class I forests and commercially more valuable forests as Class II forests. Also, based on the recommendations of this Committee, *Van Panchayats* were formed in the then Kumaon Civil Division out of Class I forests. In 1931, Government passed a legislation and framed rules for *Van Panchayats* known as Kumaon *Van Panchayat Rules,* 1931. These rules have been amended from time to time, major amendments having been made in 1972 and 1976 and again in 1984 which are yet to be approved.

In 1937, a number of *Shilpkar* colonies were started mainly in

oak forests vide Government Order (G.O.) No. 1284/XIV-425-1937 dated January 7, 1941, though these areas remain as Reserve forests. Rights in the old forests reserves were regulated through Government notification from time to time. As per G.O. No. 1119/XIV-332 dated November 23, 1937 grazing fee was abolished for the village cattle in the old reserves of Kumaon. Similarly vide G.O. No. 2369/XIV-32-50 dated September 27, 1950, *Bhotia* grazing dues were abolished.

Rights and concessions in the New Reserves were notified separately for each forest block. The settlement of rights was very largely modified as a result of the Kumaon Forests Grievances Committee of 1921. Rules for regulating rights and concessions in the New Reserves were notified in 1941. Since the condition of Class I forests which were under the control of the Revenue Department deteriorated very badly, their management was transferred to the Forest Department in 1964. Alarmed at the declining status of wildlife, tiger hunting was banned in 1970 and in 1972, the Wildlife Protection Act was promulgated.

In order to preserve trees and vegetation in rural and hill areas, the Uttar Pradesh Protection of Trees in Rural and Hill Areas Act was passed in 1976. However, through an amendment of this act in 1982, a number of species growing on individual cultivated or uncultivated holdings measuring upto 2 ha are exempt from all the provisions of this act. In order to halt the

depletion of forest cover and transfer of forest lands to other non-forest uses, Forest (conservation) Act, 1980 was passed. In 1988 a revised forest policy came into force with the objectives of maintaining environmental stability, conservation of the natural heritage of the country by preserving the remaining natural forests, increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, meeting the requirement of fuel, fodder, timber and minor forest produce of the rural and tribal populations and creating a massive people's movement with the involvement of women to achieve these objectives and to minimize pressure on forests. Government of India through their circular of June 1, 1990 laid down the framework for soliciting the active participation and cooperation of local communities and NGOs in the rehabilitation and maintenance of the degraded forests.

BACKGROUND

Over 50% of the geographical area of Kumaon hills is classified as forests (Table 1) which are divided into three categories of Reserve forests, Civil forests and *Panchayat* forests.

Table 1: Districtwise Distribution Of Forest Area

District	Geographical area (Km^2)	Forest area (Km^2)	% Forest area	Forest Area (Km^2) under			
				Forest Department	Civil forests	Panchayats	Others
Almora	5385	3944.32	73.25	1494.81	1821	627.99	0.52
Nainital	6794	4026.40	59.26	3604.78	192	207.67	21.95
Pithoragarh	8856	3302.89	37.30	1378.44	1210	714.45	----
Total	21035	11273.61	53.60	6478.03	3223	1550.11	22.47

Note : Others include private, cantonment and municipal forests

There are also some scattered patches of cantonment municipal and private forests to the extent of little over 22 Km^2. While the Civil forests are freely accessible for grazing and tree harvesting and encroachments are tolerated, the use of *Panchayat* forests is regulated by rules which are likely to be revised by the State Government. Civil lands are highly degraded and low in productivity. People also do not seem to identify themselves with these areas to the same extent as they do with *Panchayat* forests. Grazing and removal of other forest products from Reserve forests is regulated.

The Government of Uttar Pradesh and the United Kingdom Overseas Development Administration (ODA) are jointly preparing a proposal for an Environmental Forestry Project in the hills of Uttar Pradesh with the primary objectives of:

- Arresting degradation and improving productivity of forest lands in the Kumaon Hills;

- Ensuring sustainability of livelihoods and improving the quality of life of people who are currently dependent in whole or in part on forest.

The project is to develop, test and implement with local communities (including women) joint planning and management procedures for forest lands in selected areas of Kumaon Hills; explore the potential of existing local institutions for forest management, particularly the *Van Panchayats*, and the ways in which they may be strengthened to bring about the full and equitable participation of all users in management decisions and strengthen the institutional capacity of the Uttar Pradesh Forest Department.

The Government of Uttar Pradesh has launched several schemes of afforestation particularly on Civil and Soyam lands. It is essential to know the extent to which legal and customary rights of the people have helped or hindered the management of these resources including afforestation and wasteland development activities. It is also likely that land from other categories may be transferred to *Van Panchayats* under the proposed changes to *Van Panchayat Rules*, but it is not clear how the traditional rights in the transferred lands will be regulated. An understanding of the legal implications of people's rights and their perceptions of their rights and obligations, is very necessary for the operation of the proposed

Environmental Forestry Project.

STUDY OBJECTIVES

The objective of the study will be to review the laws, rights, rules and regulations which affect the use of natural resources on forest lands and private areas in the Kumaon hills. It is proposed to collect, analyze and synthesise information on the following.

1. Implementation of various forest laws affecting use of forest land such as the Indian Forest Act, the Forest Conservation Act and other local acts.

2. Various forest and revenue settlements, Government orders and notifications which cover people's access to the various types of forests.

3. Changes in the last 30 years with regard to legal aspects of forests and tree use including restrictions on felling, movement and sale of forest produce both from private and public lands.

4. Rights of grazing, collection of non-timber forest products, fuelwood, small timber and whole trees. The perceptions of these rights by people especially in Reserve forests and how these rights are likely to be affected by afforestation.

and boundary disputes and the time taken in disposal of such cases.

7. The probable impacts on people's rights when Civil lands are converted to *Van Panchayat* lands.

Note: There are no Soyam forests in Kumaon region.

METHODOLOGY

Data and other relevant information like various acts, rules and regulations affecting different categories of forests and private lands including felling and transit rules, revenue settlements, encroachments on Reserved, Civil and Panchayat forests, legal changes that have taken place during the last 30 years will be collected. Various types of offences on the forests and procedures and time lag to settle such offences etc. will be collected from Government Officials of all ranks of both the Forest and Revenue Departments in all the three districts of Almora, Nainital and Pithoragarh by both written as well as verbal communication. Information will also be gathered from the public including NGOs by undertaking field surveys and case studies. Records of Natural Archives, Forest Research Institute and Wildlife Institute of India, Dehra Dun, Department of Revenue and Forestry, Government of Uttar Pradesh and Agriculture and Forest Departments of the Government of India

studies which will help in the development of policies/ programmes for forest landuse in the state, particularly in Kumaon regions and assist in harmonising the forest based needs of the people vis-a-vis their existing rights, keeping in view sustainable development of these lands. The information/data so collected will be analysed and synthesized to make an analytical and an in depth assessment.

STAFFING

The study team will consist of two senior experienced foresters (Mr. A.N. Chaturvedi and Mr. O.N. Kaul) well versed with the problems of forestry in the Kumaon region and its legal aspects. It is also proposed to field one legal expert (if necessary), one Sociologist (Dr. Abhash Panda) and one lady Research Associate (Ms. Rajashree S. Kanetkar) to assist the team on legal, institutional and gender issues including collection, analysis and synthesis of information/data so collected.

WORK SCHEDULE

It is proposed to follow the following work schedule.

1. Collection of data and relevant information from Govt. officials of all ranks of both Forest and Revenue Departments in all the three districts by both written and verbal

communication, from people including NGOs through field surveys and case studies, national archives, Kumaon Industries Forest Resource Institute and Wildlife Institute of India, Dehra Dun, State Forest Department and Forest and Agriculture Department of the Government of India - four months

2. Analysis, synthesis and preparation of first draft - six weeks

3. Preparation of final report - two weeks

BUDGET

1.	Salaries		
	Two Consultants (Forestry)	Rs.132,000	
	One Consultant (Legal)	Rs. 30,000	
	One Sociologist	Rs. 19,000	
	One Research Associate (Lady)	Rs. 52,000	Rs.233,000
2.	Travel expenses of above staff	Rs.100,000	Rs.100,000
3.	Secretarial assistance	Rs. 20,0000	Rs. 20,000
4.	Computer time	Rs. 37,500	Rs. 37,500
5.	Preparation of documents	Rs. 25,000	Rs. 25,000
		Sub-total	Rs.415,500
6.	Overhead charges @ 15% of sub-total		Rs. 62,325
		Total	Rs.477,825
		or	Rs.478,000

Notes:

(1) Salaries have been provided for two Consultants (Forestry) for three months each; for one legal expert for one month; for one Sociologist for one month and one Research Associate for four months.

(2) Travel expenses include both local and outstation travel of the above staff for different periods of travel.

(3) The provision under secretarial assistance is for services of one secretary for two months.

(4) Computer time is provided for 150 hours.

(5) All changes are at TERI rates.